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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Sheila B. Filteau et al.
SERIAL NO. : 09/876,649 EXAMINER : Lamont M. Spooner
FILED : June 7, 2001 ART UNIT : 2654
FOR : SYSTEM AND METHOD FOR GENERATING MULTI-LINGUAL
REPORTS

APPEAL BRIEF TRANSMITTAL LETTER

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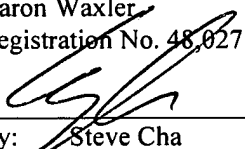
Dear Sir:

Appellants respectfully submit three copies of an Appeal Brief For Appellants that includes an Appendix with the pending claims. The Appeal Brief is now due on May 1, 2006.

Appellants enclose a check in the amount of \$500.00 covering the requisite Government Fee.

Should the Examiner deem that there are any issues which may be best resolved by telephone communication, kindly telephone Applicants undersigned representative at the number listed below.

Respectfully submitted,
Aaron Waxler
Registration No. 48,027

By: 
Attorney for Applicant
Registration No. 44,069

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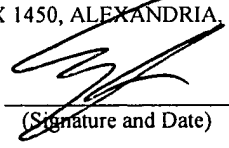
Date: May 1, 2006

Mail all correspondence to:
Aaron Waxler, Registration No. 48,027
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9608
Fax: (914) 332-0615

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Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)


(Signature and Date)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re the Application

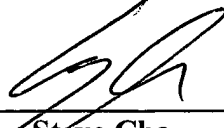
Inventor : **Sheila B. Filteau et al.**
Application No. : **09/876,649**
Filed : **June 7, 2001**
For : **SYSTEM AND METHOD FOR GENERATING
MULTI-LINGUAL REPORTS**

APPEAL BRIEF

On Appeal from Group Art Unit 2654

Date: May 1, 2006

Aaron Waxler
Registration No. 48,027


By: **Steve Cha**
Attorney for Applicant
Registration No. 44,069

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Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)

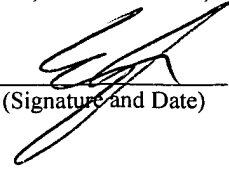

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the present application, U.S. Philips Corporation, and not the party named in the above caption.

II. RELATED APPEALS AND INTERFERENCES

With regard to identifying by number and filing date all other appeals or interferences known to Appellant which will directly effect or be directly affected by or have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

III. STATUS OF CLAIMS

Claims 2-16 and 18-20 are pending, stand finally rejected, and form the subject matter of the present appeal. Claims 1 and 17 are canceled. Claims 2-8, 11-14, 18 and 19 have been previously presented. Claims 9, 10, 15, 16 and 20 are original.

IV. STATUS OF AMENDMENTS

A Request for Reconsideration after the Final Office Action was filed on January 19, 2006. No Advisory Action has issued.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A method for providing an automated report in a computer based system includes identifying diagnostic findings commonly repeated in reports of a specific type (page 10, line 21: "common diagnostic finding"; original claim 1. The identified findings are translated into a reporting language (FIG. 4, ref. no. 410). The translated findings are

inserted into a language encoded database (FIG. 4, ref. nos. 414, 416). The language encoded database is used in a physician-directed iterative process (FIGs. 4-6) to identify diagnostic findings responsive to a plurality of observed images. The identifying includes analyzing a plurality of reports generated at a particular site (original claim 2).

In another aspect, using includes verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report (FIG. 7B, ref. no. 760, compare "Anatomie" to "Anatomy" whereas ref. no. 748 specifies "English"; page 20, lines 10-13; original claim 5).

In a further aspect, using includes verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a finding set (original claim 6).

In an additional aspect, access is provided to a multi-lingual reporting physician to an editor, wherein the physician generates, in a desired reporting language, customized diagnostic findings that are subsequently subject to said process to identify (FIG. 4; page 10, line 29 - page 11, line 4; page 14, lines 7-32).

VI. GROUND FOR REJECTION TO BE REVIEWED ON APPEAL

The matters at issue in the instant appeal are:

A) whether claim 7 is invalidly rejected under 35 U.S.C. 112, second paragraph, for lack of antecedent basis in the claims;

B) whether claim 2 is invalidly rejected under 35 U.S.C. 102(a) as anticipated by International Publication No. WO01/11548 to Wake Forest University ("WFU");

C) whether claims 7 and 9 are invalidly rejected under 35 U.S.C. 103(a) as unpatentable over WFU; and

D) whether claims 3-6, 8, 10-16 and 18-20 are invalidly rejected under 35 U.S.C. 103(a) as unpatentable over WFU in view of U.S. Patent No. 5,802,495 to Goltra.

VII. ARGUMENT

Rejection of claim 7 under 35 U.S.C. 112, second paragraph

The final Office Action dated December 8, 2005 (hereinafter "Office Action") suggests that claim 7 recites the phrase "said process to identify," and that this phrase lacks antecedent basis in the claims.

However, this phrase finds antecedent basis in claim 7, by virtue of the phrase "process to identify" earlier in the claim.

For at least this reason, the instant ground of rejection is invalid.

The Office Action introduced this ground of rejection and is believed to be non-responsive, since no Advisory Action has issued.

Rejection of claim 2 under 35 U.S.C. 102(a) based on WFU

Claim 2 recites, ". . . identifying diagnostic findings commonly repeated in reports of a specific type . . . wherein said identifying comprises analyzing a plurality of reports generated at a particular site."

WFU does not disclose this feature.

In item 5, the Office Action cites to lines 6-12 at page 20 of WFU.

This passage relates to tracking of findings, temporally and across image modalities (page 19, lines 17-19), for a particular individual. Thus, for example, although WFU tracks a particular finding and, in doing so, identifies a finding that is repeated at different times, it is unclear in what sense WFU could fairly be characterized as ". . . identifying diagnostic findings commonly repeated in reports of a specific type. . ."

In item 1, the Office Action also cites to lines 19-21 on page 4 of WFU.

This latest citation does not appear to relate to the above-quoted aspect of claim 2.

Instead, the passage the Office Action cites is merely a statement by WFU that the intended scope of its invention is not limited to particular field of medicine, or even to medicine.

WFU fails to disclose ". . . identifying diagnostic findings commonly repeated in reports of a specific type . . . wherein said identifying comprises analyzing a plurality of reports generated at a particular site," which language appears explicitly in the present claim 2.

For at least the above reasons, the present applicants submit that WFU fails to anticipate the present invention as recited in claim 2.

Moreover, claim 2 would not have been obvious based on WFU.

WFU has no suggestion of ". . . identifying diagnostic findings commonly repeated in reports of a specific type . . . wherein said identifying comprises analyzing a

plurality of reports generated at a particular site," which language appears explicitly in the present claim 2.

For at least the above reasons, and beyond the anticipation rejection of claim 2, it is not obvious either.

Nor do the present applicants see how claim 2 could be construed as obvious in view of WFU.

Rejection of claim 7 under 35 U.S.C. 103(a) based on WFU

Claim 7 recites, ". . . identifying diagnostic findings commonly repeated in reports of a specific type. . ."

WFU fails to disclose or suggest this aspect of claim 7.

The Office Action relies on the same passages discussed above with regard to claim 2.

In addition, it is noted that claim 7 recites:

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images; and providing access to a multi-lingual reporting physician to an editor, wherein the physician generates, in a desired reporting language, customized diagnostic findings that are subsequently subject to said process to identify

The WFU radiologist examines images of a patient (page 22, line 16).

"When the radiologist locates a diagnostically significant feature" (page 24, line 17), the radiologist marks the feature. In particular, the radiologist annotates image coordinates of the feature with anatomical: pathological codes (page 24, lines 17-24).

"As each diagnostic finding is created" (page 25, lines 2-3), a thumbnail image is created.

The Office Action suggests, in the next to last paragraph on page 6, "'as each diagnostic finding is created' is interpreted as the physician-directed iterative process."

The Office Action fails to specify, however, what it deems in WFU to correspond to ". . . using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images. . . the physician generates, in a desired reporting language, customized diagnostic findings that are subsequently subject to said process to identify."

Eventually, the WFU radiologist's report is translated to the end-user into a different language.

The WFU radiologist edits the report as necessary (page 28, lines 12-13), and the system sorts and prioritizes the findings (page 4, lines 7-18).

It is unclear however, for example, in what sense the Office Action regards WFU as generating "customized diagnostic findings."

It is also unclear, for example, in what sense the Office Action deems WFU "customized diagnostic findings" "the physician generates" to be "subsequently subject to said process to identify."

For at least the above reasons, WFU fails to render claim 7 obvious.

Rejection of claim 9 under 35 U.S.C. 103(a) based on WFU

Claim 9 depends from claim 7, and is likewise deemed to distinguish patentably over WFU.

In addition, claim 9 recites, ". . . the customized diagnostic findings derive from a previously approved set of diagnostic findings in the reporting physician's desired reporting language . . ."

The Office Action seems to suggest that the radiologist does the "approving."

In WFU, the "radiologist edits the final report as necessary" (page 28, line 12).

It is accordingly unclear in what sense the Office Action suggests that WFU discloses or suggests, ". . . the customized diagnostic findings derive from a previously approved set of diagnostic findings in the reporting physician's desired reporting language . . ."

For at least this reasons too, claim 9 distinguishes patentably over WFU.

Rejection of claims 3-6, 8 under 35 U.S.C. 103(a) as unpatentable over WFU in view of Goltra

Claim 5 recites:

identifying diagnostic findings commonly repeated in reports of a specific type; using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images, wherein using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report

As to the expression "commonly repeated," the discussion above with regard to the rejection of claim 2 applies. Goltra cannot make up for this deficiency.

As the Office Action acknowledges, WFU lacks disclosure or suggestion of the above-quoted aspect of claim 5 relating to "verifying," (Office Action, middle of page 8), but attempts to rely on Goltra for this feature.

In particular, the Office Action cites to the expression "tells the system . . ." at the bottom of column 5 in Goltra for this feature.

However, it appears that when the Goltra healthcare professional selects Spanish, the report generating will select stored phrases and sentences whose accompanying stored codes indicate that the language in which the particular phrase or sentence is stored is Spanish.

It is unclear how verification can be said to enter into this process.

For at least this reason, it is likewise unclear how Goltra could fairly be said to feature, ". . . verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report."

The Office Action, in attempting to show verification, also refers to WFU, page 30, lines 1-4. The Office Action suggests that verification is "inherent" in the cited passage from WFU.

The instant applicants traverse this suggestion by the Office Action.

The WFU clinician "can click on" (page 29, line 24) a screen image to access data. Thus, the WFU clinician is afforded a user interface. Presumably, the "rapid translation of reports to foreign languages employing translation look-up tables" is caused by user selection of a desired foreign language on the user interface. In that event, the

WFU reporting system uses the look-up tables to translate to the selected foreign language.

It is unclear how verification can be said to enter into this process.

For at least this reason, it is likewise unclear how WFU could fairly be said to feature, ". . . verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report."

Moreover, for at least the above reasons, it is unclear how WFU and Goltra, alone or in combination, could fairly be said to feature, ". . . identifying diagnostic findings commonly repeated in reports of a specific type; . . . verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report."

For at least the foregoing reasons, claim 5 distinguishes patentably over the applied references.

Claim 6 recites, ". . . identifying diagnostic findings commonly repeated in reports of a specific type; . . . using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images, wherein using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a finding set."

Claim 6 is accordingly deemed patentable over the applied references for at least the same reasons set forth above with regard to claim 5.

Rejection of claim 10 under 35 U.S.C. 103(a) over WFU in view of Goltra

Claim 10 depends from claim 6, and is deemed patentable over the applied references at least due to its dependency.

In addition, claim 10 recites, ". . . using comprises associating the diagnostic finding set with a desired study."

On the one hand, the Office Action suggests that the Goltra patient chart corresponds to the "finding set" of claim 10 (see Office Action, page 10, discussion of parent claim 8).

On the other hand, the Office Action suggests that "associating the diagnostic finding set with a desired study," and cites to lines 1-17 of page 18 in WFU.

However, there is no disclosure or suggestion of a "study."

For at least this reason, there is no disclosure or suggestion of a "desired study."

For at least these reasons, there is no disclosure or suggestion in the references, alone or in combination, of ". . . using comprises associating the diagnostic finding set with a desired study."

Rejection of claims 11-16 and 18-20 under 35 U.S.C. 103(a) based on WFU in view of Goltra

Claim 11 recites:

means for selectively applying the plurality of diagnostic findings to generate the diagnostic report, subject to verifying that a candidate finding of the plural findings to be applied is encoded with a language identifier indicative of a match with an operator desired reporting language

Claim 11 is deemed to distinguish patentably over the prior art of record for at least the same reasons set forth above with regard to word "verifying" in claim 5.

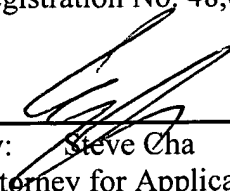
Claim 19, likewise, recites, ". . . the software application is configured with logic for verifying that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language.

Claim 19 is also deemed to distinguish patentably over the prior art of record for at least the same reasons set forth above with regard to word "verifying" in claim 5.

In view of the above analysis, it is respectfully submitted that the referenced teachings, whether taken individually or in combination, fail to anticipate or render obvious the subject matter of any of the present claims. Therefore, reversal of all outstanding grounds of rejection is respectfully solicited.

Respectfully submitted,
Aaron Waxler
Registration No. 48,027

Date: May 1, 2006


By: Steve Cha
Attorney for Applicant
Registration No. 44,069

VIII. CLAIMS APPENDIX

2. (previously presented) A method for providing an automated report in a computer based system, comprising:

- identifying diagnostic findings commonly repeated in reports of a specific type;
- translating the identified findings into a reporting language;
- inserting the translated findings into a language encoded database; and
- using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images,

wherein said identifying comprises analyzing a plurality of reports generated at a particular site.

3. (previously presented) The method of claim 5, wherein said identifying comprises analyzing a plurality of reports generated in response to a particular study.

4. (previously presented) The method of claim 5, wherein said translating occurs on a computer-based user interface and comprises modifying, into a different reporting language, text of a diagnostic finding used to generate a report product.

5. (previously presented) A method for providing an automated report in a computer based system, comprising:

- identifying diagnostic findings commonly repeated in reports of a specific type;
- translating the identified findings into a reporting language;
- inserting the translated findings into a language encoded database; and

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images, wherein using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report.

6. (previously presented) A method for providing an automated report in a computer based system, comprising:

- identifying diagnostic findings commonly repeated in reports of a specific type;
- translating the identified findings into a reporting language;
- inserting the translated findings into a language encoded database; and
- using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images, wherein using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a finding set.

7. (previously presented) A method for providing an automated report in a computer based system, comprising:

- identifying diagnostic findings commonly repeated in reports of a specific type;
- translating the identified findings into a reporting language;
- inserting the translated findings into a language encoded database;

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images; and

providing access to a multi-lingual reporting physician to an editor, wherein the physician generates, in a desired reporting language, customized diagnostic findings that are subsequently subject to said process to identify.

8. (previously presented) The method of claim 6, wherein using comprises associating said finding set with a desired reporting language.

9. (original) The method of claim 7, wherein the customized diagnostic findings derive from a previously approved set of diagnostic findings in the reporting physician's desired reporting language.

10. (original) The method of claim 8, wherein using comprises associating the diagnostic finding set with a desired study.

11. (previously presented) A computer based diagnostic reporting system, comprising:

means for providing a plurality of diagnostic findings in a text form conducive for use in a diagnostic report;

means for translating the plurality of diagnostic findings into a reporting language;

means for supplying the plurality of diagnostic findings in the reporting language;
and

means for selectively applying the plurality of diagnostic findings to generate the diagnostic report, subject to verifying that a candidate finding of the plural findings to be applied is encoded with a language identifier indicative of a match with an operator desired reporting language.

12. (previously presented) The system of claim 11, wherein the providing means comprises means for storing a plurality of diagnostic findings generated by a supervising physician skilled in the analysis of a study.

13. (previously presented) The system of claim 11, wherein said translating occurs on a computer-based user interface and the translating means comprises means for modifying, into a different reporting language, a plurality of diagnostic findings.

14. (previously presented) The system of claim 11, further comprising means for storing the plural translated findings, wherein the supplying means comprises means for selectively retrieving the stored findings in the reporting language.

15. (original) The system of claim 11, wherein the applying means comprises a medical report generator configured to format the plurality of diagnostic findings in a pre-determined report format.

16. (original) The system of claim 13, wherein the plurality of diagnostic findings are generated by a multi-lingual physician skilled in the analysis of a study.

18. (previously presented) The system of claim 19, wherein the software application is programmed to store data associated with a particular report and operative to selectively retrieve and regenerate the stored data.

19. (previously presented) A software application driven report generation system, comprising:

a user interface operable to receive a report template, a plurality of diagnostic findings, and inputs from an operator, the user interface further programmed to provide an output indicative of a report;

a decision logic engine operable to receive the output from the user interface, and the plurality of diagnostic findings, and to evaluate the inputs from the operator, wherein the decision logic engine provides an output indicative of a formatted version of the desired report; and

a renderer configured to receive the output indicative of the formatted version of the desired report and to generate a signal compatible with the report output device, wherein the software application is configured with logic for verifying that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language.

20. (original) The system of claim 19, wherein the software application is

configured with logic that permits a multi-lingual reporter to edit diagnostic findings in a desired reporting language.

IX. EVIDENCE APPENDIX

The appellants are unaware of any evidence.

X. RELATED PROCEEDING APPENDIX

The appellants are unaware of any related proceeding.